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# Selected Provisions: Adoption of a Building or State Fire Code

*The following is not a comprehensive list of provisions in the Utah Code that address the state's adoption of a building code or state fire code. The sections have been included because of their focus on the process of adopting a code. The sections listed include the changes made during the 2009 General Session. For more information, please contact the Office of Legislative Research and General Counsel.*

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## **Excerpts from Title 53, Chapter 7, Utah Fire Prevention and Safety Act**

### **53-7-106. Adoption of fire code.**

(1) A fire code promulgated by a nationally recognized code authority and adopted by the Legislature under Section 58-56-4 is the state fire code, to which cities, counties, fire protection districts, and the state shall adhere in safeguarding life and property from the hazards of fire and explosion.

(2) (a) The legislative body of a political subdivision may make ordinances that are more restrictive in its fire code requirements than the state fire code, in order to meet the public safety needs of the political subdivision.

(b) The legislative body of a political subdivision shall provide to the Utah Fire Prevention Board one copy of each ordinance enacted under Subsection (2)(a).

(c) The state fire marshal shall keep an indexed copy of the ordinances.

(d) Copies of the ordinances are available from the state fire marshal on request

### **53-7-204. Duties of Utah Fire Prevention Board -- Local administrative duties.**

(1) The board shall:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) administer a nationally recognized fire code and the specific edition of that fire code as the state fire code to be used as the standard;

(ii) establishing minimum standards for the prevention of fire and for the protection of life and property against fire and panic in any:

(A) publicly owned building, including all public and private schools, colleges, and university buildings;

(B) building or structure used or intended for use as an asylum, a mental hospital, a hospital, a sanitarium, a home for the aged, an assisted living facility, a children's home or day care center, or any similar institutional type occupancy of any capacity; and

(C) place of assemblage where 50 or more persons may gather together in a building, structure, tent, or room for the purpose of amusement, entertainment, instruction, or education;

(iii) establishing safety and other requirements for placement and discharge of display fireworks based upon:

(A) the specific edition of the nationally recognized fire code adopted by the Legislature under Section 58-56-4; and

(B) relevant publications of the National Fire Protection Association;

(iv) establishing minimum safety standards for retail storage, handling, and sale of class C common state approved explosives;

(v) defining methods to establish proof of competence to place and discharge display fireworks;

(vi) for deputizing qualified persons to act as deputy fire marshals, and to secure special services in emergencies;

(vii) implementing Sections 53-7-106 and 53-7-205;

(viii) setting guidelines for use of funding;

(ix) establishing criteria for training and safety equipment grants for fire departments enrolled in firefighter certification; and

(x) establishing minimum ongoing training standards for hazardous materials emergency response agencies;

(b) recommend to the commissioner a state fire marshal;

(c) develop policies under which the state fire marshal and the state fire marshal's authorized representatives will perform;

(d) provide for the employment of field assistants and other salaried personnel as required;

(e) prescribe the duties of the state fire marshal and the state fire marshal's authorized representatives;

(f) establish a statewide fire prevention, fire education, and fire service training program in cooperation with the Board of Regents;

(g) establish a statewide fire statistics program for the purpose of gathering fire data from all political subdivisions of the state;

(h) establish a fire academy in accordance with Section 53-7-204.2;

(i) coordinate the efforts of all people engaged in fire suppression in the state;

(j) work aggressively with the local political subdivisions to reduce fire losses;

- (k) regulate the sale and servicing of portable fire extinguishers and automatic fire suppression systems in the interest of safeguarding lives and property;
- (l) establish a certification program for persons who inspect and test automatic fire sprinkler systems;
- (m) establish a certification program for persons who inspect and test fire alarm systems;
- (n) establish a certification for persons who provide response services regarding hazardous materials emergencies; and
- (o) in accordance with Section 58-56-4, make a report to the Business and Labor Interim Committee by:
  - (i) no later than November 30 of each year recommending any amendments to the currently adopted fire code; and
  - (ii) no later than November 30 in a year of a regularly scheduled update cycle of a nationally promulgated fire code recommending the adoption of, amendment to, or repeal of the updated nationally promulgated fire code.
- (2) The board may incorporate in its rules by reference, in whole or in part, nationally recognized and readily available standards and codes adopted by the Legislature pertaining to the protection of life and property from fire, explosion, or panic.
- (3) (a) The board shall recommend to the Legislature in accordance with Subsection (1)(o) amendments to the state fire code adopted by the Legislature in accordance with Section 58-56-7.
- (b) The amendments, as adopted by the Legislature, may be applicable to the entire state or within a city, county, or fire protection district.
- (4) The following functions shall be administered locally by a city, county, or fire protection district:
  - (a) issuing permits, including open burning permits pursuant to Sections 11-7-1 and 19-2-114;
  - (b) creating a local board of appeals in accordance with the state fire code; and
  - (c) establishing, modifying, or deleting fire flow and water supply requirements.

## **Excerpts from the Title 58, Chapter 56, Utah Uniform Building Standards Act**

### **58-56-2. Chapter administration.**

The provisions of this chapter shall be administered by the Division of Occupational and Professional Licensing.

### **58-56-3. Definitions.**

In addition to the definitions in Section 58-1-102, as used in this chapter:

- (1) (a) "Adopted code" means:
  - (i) (A) a new edition of or amendment to an existing code, including the standards and specifications contained in the code, adopted by the Legislature under Section 58-56-7; and
  - (B) administered by the division under Section 58-56-6; and
  - (ii) adopted by a nationally recognized code authority, including:
    - (A) a building code;
    - (B) the National Electrical Code promulgated by the National Fire Protection Association;
    - (C) a residential one and two family dwelling code;
    - (D) a plumbing code;
    - (E) a mechanical code;
    - (F) a fuel gas code;
    - (G) an energy conservation code; and
    - (H) a manufactured housing installation standard code.
- (b) "Adopted code" includes:
  - (i) a fire code administered by the Fire Prevention Board under Section 53-7-204; and
  - (ii) a code listed in Subsection (1)(a)(ii) that was adopted or amended by the division and Uniform Building Code Commission or the Fire Protection Board before May 12, 2009.
- (2) (a) (i) "Approved code" means a code, including the standards and specifications contained in the code, approved by the division under Section 58-56-4 for use by a compliance agency; and
- (ii) administered by the division under Section 58-56-6.
- (b) "Approved code" does not include an adopted code listed under Subsection (1)(b).
- (3) "Board" means the Fire Prevention Board created in Section 53-7-203.
- (4) "Building" means a structure used or intended for supporting or sheltering any use or occupancy and any improvements attached to it.
- (5) "Commission" means the Uniform Building Code Commission created under this chapter.
- (6) "Compliance agency" means:
  - (a) an agency of the state or any of its political subdivisions which issues permits for construction regulated under the codes;

- (b) any other agency of the state or its political subdivisions specifically empowered to enforce compliance with the codes; or
- (c) any other state agency which chooses to enforce codes adopted under this chapter by authority given the agency under a title other than Title 58, Occupations and Professions.
- (7) "Factory built housing" means manufactured homes or mobile homes.
- (8) (a) "Factory built housing set-up contractor" means an individual licensed by the division to set up or install factory built housing on a temporary or permanent basis.
- (b) The scope of the work included under the license includes the placement or securing, or both placement and securing, of the factory built housing on a permanent or temporary foundation, securing the units together if required, and connection of the utilities to the factory built housing unit, but does not include site preparation, construction of a permanent foundation, and construction of utility services to the near proximity of the factory built housing unit.
- (c) If a dealer is not licensed as a factory built housing set-up contractor, that individual must subcontract the connection services to individuals who are licensed by the division to perform those specific functions under Title 58, Chapter 55, Utah Construction Trades Licensing Act.
- (9) "HUD code" means the National Manufactured Housing Construction and Safety Standards Act, 42 U.S.C. Sec. 5401 et seq.
- (10) "Legislative action" means the Legislature's:
  - (a) adoption of a new adopted code;
  - (b) adoption of an amendment to an existing adopted code;
  - (c) repeal of an adopted code; or
  - (d) repeal of a provision of an adopted code.
- (11) "Local regulator" means each political subdivision of the state which is empowered to engage in the regulation of construction, alteration, remodeling, building, repair, and other activities subject to the codes.
- (12) (a) "Manufactured home" means a transportable factory built housing unit constructed on or after June 15, 1976, according to the HUD Code, in one or more sections, which:
  - (i) in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 400 or more square feet; and
  - (ii) is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.
- (b) Manufactured homes constructed on or after June 15, 1976, shall be identifiable by the manufacturer's data plate bearing the date the unit was manufactured and a HUD label attached to the exterior of the home certifying the home was manufactured to HUD standards.
- (13) "Mobile home" means a transportable factory built housing unit built prior to June 15, 1976, in accordance with a state mobile home code which existed prior to the HUD Code.
- (14) "Modular unit" means a structure built from sections which are manufactured in accordance with the construction standards adopted pursuant to Section 58-56-4 and transported to a building site, the purpose of which is for human habitation, occupancy, or use.
- (15) "Opinion" means a written, nonbinding, and advisory statement issued by the commission concerning an interpretation of the meaning of the codes or the application of the codes in a specific circumstance issued in response to a specific request by a party to the issue.
- (16) "State regulator" means an agency of the state which is empowered to engage in the regulation of construction, alteration, remodeling, building, repair, and other activities subject to the codes adopted pursuant to this chapter.

#### **58-56-4. Definitions -- Adoption of building codes -- Amendments -- Approval of other codes -- Exemptions.**

- (1) As used in this section:
  - (a) "agricultural use" means a use that relates to the tilling of soil and raising of crops, or keeping or raising domestic animals;
  - (b) "not for human occupancy" means use of a structure for purposes other than protection or comfort of human beings, but allows people to enter the structure for:
    - (i) maintenance and repair; and
    - (ii) the care of livestock, crops, or equipment intended for agricultural use which are kept there; and
  - (c) "residential area" means land that is not used for an agricultural use and is:
    - (i) (A) within the boundaries of a city or town; and
    - (B) less than five contiguous acres;
    - (ii) (A) within a subdivision for which the county has approved a subdivision plat under Title 17, Chapter 27a, Part 6, Subdivisions; and
    - (B) less than two contiguous acres; or
    - (iii) not located in whole or in part in an agricultural protection area created under Title 17, Chapter 41, Agriculture and Industrial Protection Areas.
- (2) A person shall follow an adopted code when:

- (a) new construction is involved; and
  - (b) the owner of an existing building, or the owner's agent, is voluntarily engaged in:
    - (i) the repair, renovation, remodeling, alteration, enlargement, rehabilitation, conservation, or reconstruction of the building; or
    - (ii) changing the character or use of the building in a manner which increases the occupancy loads, other demands, or safety risks of the building.
- (3) (a) Beginning May 12, 2009, the board and commission shall, in accordance with Sections 53-7-204 and 58-56-5, make recommendations to the Business and Labor Interim Committee as to whether or not the Legislature should take legislative action.
- (b) (i) If the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, the Business and Labor Interim Committee shall prepare legislation for consideration by the Legislature in the next general session.
- (ii) The legislation described in Subsection (3)(b)(i) shall direct:
- (A) the division to administer an adopted code, excluding the fire code, in accordance with legislative action approved by the Legislature; and
- (B) the board to administer an adopted fire code in accordance with legislative action approved by the Legislature.
- (4) (a) Notwithstanding Subsection (3), the commission may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt an adopted code, except the fire code, if the commission determines that waiting for legislative action in the next general legislative session under Subsection (3) would:
- (i) cause an imminent peril to the public health, safety, or welfare; or
  - (ii) place a person in violation of federal or other state law.
- (b) If the commission adopts an adopted code under Subsection (4)(a), the commission shall file with the division:
- (i) the text of the adopted code; and
  - (ii) an analysis that includes the specific reasons and justifications for its findings.
- (c) The division shall, in accordance with Subsection (4)(b):
- (i) publish the adopted code in accordance with Section 58-56-6; and
  - (ii) notify the Business and Labor Interim Committee of the adoption, including a copy of the commission's analysis described in Subsection (5)(b).
- (d) If not formally adopted by the Legislature at its next annual general session, an adopted code adopted under this Subsection (4) is repealed effective at midnight on the last day that the Legislature adjourns sine die at its next annual general session.
- (5) (a) Notwithstanding Subsection (3), the board may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt a fire code, if the board determines that waiting for legislative action in the next general legislative session under Subsection (3) would:
- (i) cause an imminent peril to the public health, safety, or welfare; or
  - (ii) place a person in violation of federal or other state law.
- (b) The board shall:
- (i) publish the adopted fire code; and
  - (ii) notify the Business and Labor Interim Committee of the adoption, including a copy of an analysis by the board identifying specific reasons and justifications for its findings.
- (c) If not formally adopted by the Legislature at its next annual general session, a fire code adopted under this Subsection (5) is repealed effective at midnight on the last day that the Legislature adjourns sine die at its next annual general session.
- (6) (a) The division, in consultation with the commission, has discretion to approve, without adopting, certain approved codes, including specific editions of the approved codes, for use by a compliance agency.
- (b) Under Subsection (6)(a), a compliance agency has the discretion to:
- (i) adopt an ordinance requiring removal, demolition, or repair of a building, according to an adopted code;
  - (ii) adopt, by ordinance or rule, a dangerous building code; or
  - (iii) adopt, by ordinance or rule, a building rehabilitation code.
- (7) (a) Except in a residential area, a structure used solely in conjunction with agriculture use, and not for human occupancy, is exempted from the permit requirements of an adopted code.
- (b) Notwithstanding Subsection (7)(a), unless otherwise exempted, plumbing, electrical, and mechanical permits may be required when that work is included in the structure.

## **58-56-5. Uniform Building Code Commission -- Composition of commission -- Commission duties and responsibilities.**

- (1) There is established a Uniform Building Code Commission to advise the division with respect to the division's responsibilities in administering the codes under this chapter.
- (2) The commission shall be appointed by the executive director who shall submit those nominations to the governor for confirmation or rejection. If a nominee is rejected, alternative names shall be submitted until confirmation is received. Following confirmation by the governor, the appointment is effective.

- (3) The commission shall consist of eleven members who shall be appointed in accordance with the following:
  - (a) one member shall be from among candidates nominated by the Utah League of Cities and Towns and the Utah Association of Counties;
  - (b) one member shall be a licensed building inspector employed by a political subdivision of the state;
  - (c) one member shall be a licensed professional engineer;
  - (d) one member shall be a licensed architect;
  - (e) one member shall be a fire official;
  - (f) three members shall be contractors licensed by the state, of which one shall be a general contractor, one an electrical contractor, and one a plumbing contractor;
  - (g) two members shall be from the general public and have no affiliation with the construction industry or real estate development industry; and
  - (h) one member shall be from the Division of Facilities Construction Management, Department of Administrative Services.
- (4) (a) Except as required by Subsection (4)(b), as terms of current commission members expire, the executive director shall appoint each new member or reappointed member to a four-year term.
- (b) Notwithstanding the requirements of Subsection (4)(a), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.
- (5) When a vacancy occurs in the membership for any reason, the executive director shall appoint a replacement for the unexpired term.
- (6) No commission member may serve more than two full terms, and no commission member who ceases to serve may again serve on the commission until after the expiration of two years from the date of cessation of service.
- (7) A majority of the commission members shall constitute a quorum and may act on behalf of the commission.
- (8) (a) (i) Members who are not government employees shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
- (ii) Members may decline to receive per diem and expenses for their service.
- (b) (i) State government officer and employee members who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the commission at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
- (ii) State government officer and employee members may decline to receive per diem and expenses for their service.
- (c) (i) Local government members who do not receive salary, per diem, or expenses from the entity that they represent for their service may receive per diem and expenses incurred in the performance of their official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
- (ii) Local government members may decline to receive per diem and expenses for their service.
- (9) (a) The commission shall annually designate one of its members to serve as chair of the commission.
- (b) The division shall provide a secretary to facilitate the function of the commission and to record its actions and recommendations.
- (10) The commission shall:
  - (a) in accordance with Section 58-56-4, make a report to the Business and Labor Interim Committee by no later than November 30 of each year;
  - (b) ensure that the report includes recommendations as to whether or not the Legislature should take legislative action, excluding any recommendations on the fire code;
  - (c) offer an opinion regarding the interpretation of or the application of an adopted code, excluding the fire code, or an approved code if a party submits a request for an opinion;
  - (d) act as an appeals board as provided in Section 58-56-8;
  - (e) establish advisory peer committees on either a standing or ad hoc basis to advise the commission with respect to matters related to an adopted code, excluding the fire code, or approved code, including a committee to advise the commission regarding health matters related to the plumbing code; and
  - (f) assist the division in overseeing code-related training in accordance with Section 58-56-9.
- (11) A party requesting an opinion under Subsection (10)(c) shall submit a formal request clearly stating:
  - (a) the facts in question;
  - (b) the specific code citation at issue; and
  - (c) the position taken by all parties.

#### **58-56-6. Building codes -- Division duties and responsibilities.**

- (1) The division shall administer the codes adopted or approved under Section 58-56-4 pursuant to this chapter, but has no responsibility or duty to conduct inspections to determine compliance with the codes, issue permits, or assess building permit fees.
- (2) Administration of the codes adopted or approved under Section 58-56-4 by the division shall include:
  - (a) scheduling appropriate hearings;
  - (b) maintaining, publishing for reference, and keeping the current adopted code, excluding the fire code, and approved code; and

(c) publishing the opinions of the commission with respect to interpretation and application of the codes.

**58-56-7. Code amendments -- Commission recommendations -- Division duties and responsibilities.**

(1) (a) Subject to Subsection (1)(b), the division, in consultation with the commission, shall establish by rule the procedure and manner under which requests for legislative action to an adopted code shall be:

(i) filed with the division;

(ii) reviewed by the commission; and

(iii) recommended by the commission to the Business and Labor Interim Committee for legislative action in accordance with Section 58-56-5.

(b) Notwithstanding Subsection (1)(a), the board shall recommend legislative action to the fire code in accordance with Section 53-7-204.

(2) The division shall accept from any local regulators, state regulators, state agencies involved with the construction and design of buildings, the contractors, plumbers, or electricians licensing boards, or from recognized construction-related associations a request for amendment to the codes under Section 58-56-4.

(3) (a) Except in the case of the fire code, the division may make recommendations to the commission for legislative action.

(b) Except in the case of the fire code, the commission may also consider legislative action on its own initiative.

(4) (a) On May 15 and October 15 of each calendar year, or the first government working day after those dates if either date falls on a weekend or government holiday, the division shall convene a public hearing, before the commission concerning requests for legislative action to an adopted code in accordance with Section 58-56-4.

(b) The hearing shall be conducted in accordance with the rules of the commission.

(5) The commission shall, after the hearing described in Subsection (4), make a written report of recommended amendments to be included in the commission's report to the Business and Labor Interim Committee under Section 58-56-5.

(6) In making rules required by this chapter, the division shall comply with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.